REMARKS

Claims 1-7 and 10-16 remain pending in this application, and claims 1-7 and 10-16 have been rejected. Claims 1 and 10-13 have been amended to correct typographical and grammatical errors.

Reconsideration of this application in light of the following remarks is requested.

I.   Claim Objections

Claims 1, 10, 12, and 13 were objected to due to a typographical error. Each instance of "forth" in claims 1, 10, 12, and 13 has been amended to recite "fourth".

Further, claim 1 was objected to due to a grammatical error. Claim 1 has been amended to recite "the customer records that have the highest assigned evaluation scores".

Accordingly, withdrawal of the objections to claims 1, 10, 12, and 13 is requested.

II.   Rejections Under 35 U.S.C. §103

Claim 1

Claim 1 recites the following:

1. A computer implemented method of evaluating a plurality of customer records stored in a computer database to identify high value customers to be targeted by a customer retention or reward program, each customer record having at least a first attribute and a second attribute, each of the first attribute and the second attribute having an associated attribute value, the method comprising:

a)   first sorting the plurality of customer records based on the first attribute and assigning a first discretized attribute to each customer record where the first discretized attribute is based on the sorted rank of the customer record;

b)   second sorting the plurality of customer records based on the second attribute and assigning a second discretized attribute to each customer record where the second discretized attribute is based on the sorted rank of the customer record;

c)   third sorting the plurality of customer records in to an order based on the assigned

first discretized attribute scores associated with the first attribute;

d)　　　　fourth sorting the ordered plurality of customer records resulting from the third sorting in to an order where the customer records having the same first discretized attribute scores are further sorted based on the assigned second discretized attribute scores associated with the second attribute;

e)　　　　fifth sorting the ordered plurality of customer records resulting from the fourth sorting in to an order based on the attribute values associated with at least the first attribute and the second attribute, until customer records, which have different attribute values associated with at least the first attribute or the second attribute, have been sorted to different ranks;

f)　　　　assigning an evaluation score to each customer record based on the rank of each customer record after the fifth sorting and independent of the discretized attribute scores; and

g)　　　　identifying the high value customers by selecting the customer records that having the highest assigned evaluation scores.

Claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over "Quick Profits with RFM Analysis" by Arthur Hughes ("Hughes") in view of U.S. Patent Number 6,925,441 to Jones et al ("Jones"). Applicants traverse this rejection on the grounds that these references are defective in establishing a *prima facie* case of obviousness with respect to claim 1.

As the PTO recognizes in MPEP § 2142:

> *... The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness...*

It is submitted that, in the present case, the Examiner has not factually supported a *prima facie* case of obviousness for the following reasons:

Even When Combined, the References Do Not Teach the Claimed Subject Matter

The Hughes and Jones references cannot be applied to reject claim 1 under 35 U.S.C. § 103 which provides that:

> *A patent may not be obtained ... if the differences between the subject matter sought to be patented and the prior art are such that*

> *the subject matter as a whole would have been obvious at the time*
> *the invention was made to a person having ordinary skill in the art*
> *to which the subject matter pertains ... (Emphasis added)*

Thus, when evaluating a claim for determining obviousness, all limitations of the claim must be evaluated. However, since neither Hughes or Jones teaches "fourth sorting the ordered plurality of customer records resulting from the third sorting in to an order where the customer records having the same first discretized attribute scores are further sorted based on the assigned second discretized attribute scores associated with the second attribute" as is claimed in claim 1, it is impossible to render the subject matter of claim 1 as a whole obvious, and the explicit terms of the statute cannot be met.

With regard to the claim 1 limitation of fourth sorting the ordered plurality of customer records resulting from the third sorting in to an order where the customer records having the same first discretized attribute scores are further sorted based on the assigned second discretized attribute scores associated with the second attribute, the Examiner stated the following:

> The records are sorted by the 'monetary value' attribute so that all records with a 'monetary value' attribute of "5" are grouped together, all records with a 'monetary value' attribute of "4" are grouped together, etc. Within each grouping, the records are again sorted according to the 'frequency attribute'...

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Applicant respectfully disagrees. Hughes generally describes assignment of a recency value attribute, a monetary value attribute, and a frequency value attribute to database records and independently sorting the database records according to the recency, monetary, and frequency value attributes. Hughes further describes assigning a three digit cell code to each record that includes a respective digit for each of the recency, frequency, and monetary value attributes (See Hughes, Page 6, Last Paragraph). Hughes in no manner describes or suggests sorting records resulting from a third sorting in to an order where the records having same first discretized attribute scores, e.g., monetary value attributes, are further sorted based on a second discretized attribute score, e.g., frequency value attributes, associated with the second attribute. Neither Jones or Database Marketing Institute's RFM for Windows ("RFM for Windows")

provide for the deficiencies of Hughes. For at least this reason, the Examiner has failed to provide a *prima facie* case of obviousness with regard to claim 1.
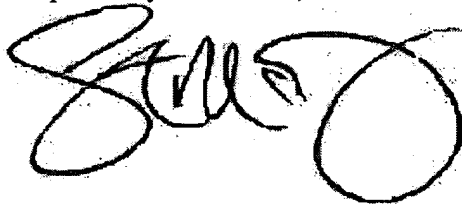
Independent claims 10-13 recite similar features as claim 1 and were rejected under similar rationale. Therefore, the same distinctions between Hughes, Jones, and RFM for Windows and the claimed invention in claim 1 apply for claim 10-13. For the reasons described above, the Hughes, Jones, and RFM for Windows references fail to provide a *prima facie* case of obviousness with regard to claims 10-13, and withdrawal of the rejection of claims 10-13 under 35 U.S.C. 103(a) is respectfully requested.

III.   Conclusion

It is clear from all of the foregoing that independent claims 1 and 10-13 are in condition for allowance. Dependent claims 2-7 and 14-16 depend from and further limit independent claims 1 and 10-13 and therefore are allowable as well.

An early formal notice of allowance of claims 1-7 and 10-16 is requested.

Respectfully submitted,

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Dated: 24 March 2008

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Docket No.: 8907